



Steven W. Troxler
Commissioner

**North Carolina Department of Agriculture
and Consumer Services**
Veterinary Division

Christina L. Waggett
Assistant Commissioner
for Consumer Protection

Michael Martin, DVM
State Veterinarian

November 17, 2021

Mary Beth Jensen
Owner
Friendly Pets DBA Jensen & Sons, Inc.
625 Friendly Center Road
Greensboro, North Carolina 27408

NOTICE of CIVIL PENALTY and NOTICE OF WARNING

**Re: CIVIL PENALTY ASSESSMENT for VIOLATIONS of TITLE 02 N.C.
ADMINISTRATIVE CODE ("NCAC") CHAPTER 52J SECTION .0204(c) and NOTICE
of WARNING for VIOLATION of 02 NCAC 52J .0210(c).**

AWS-CP-2021-18

Facility: Friendly Pets DBA Jensen & Sons, Inc.
License Number 20446

Dear Ms. Jensen:

Pursuant to NCGS § 19A-40, I am issuing this notice that you individually and Friendly Pets d/b/a Jensen & Sons, Inc., are hereby assessed a civil penalty of \$800.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of this document, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N.C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to NCGS § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by NCGS § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings ("OAH") within 60 days from the date of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00). Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000.

You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Norris", followed by the printed text "DVM, MS".

Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: Michael Martin, DVM, State Veterinarian;
Tina Hlabse, General Counsel, NCDA&CS;
Christina L. Waggett, Assistant Commissioner, NCDA&CS;
Christopher R. McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF)	NOTICE of VIOLATION and
)	ASSESSMENT of CIVIL PENALTY
MARY BETH JENSEN)	for VIOLATION of TITLE 02 N.C.
OWNER OF)	ADMINISTRATIVE CODE CHAPTER
FRIENDLY PETS)	52J SECTION .0204(c) and NOTICE
DBA JENSON & SONS, INC)	of WARNING for VIOLATION of 02
)	NCAC 52J .0210(c).
)	

Acting pursuant to N.C. General Statute § 19A-40, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter, Friendly Pets DBA Jensen and Sons, Inc. ("the pet shop") was a pet shop, licensed pursuant to N.C. General Statute ("NCGS") § 19A-27.
2. On August 25, 2021, AWS assessed a Civil Penalty against the pet shop for violation of 02 NCAC 52J .0101(5); .0202(b); .0204(b) and (c); .0206; .0207(a) and (b)(4); .0209(5) and .0210(c) and issued a Notice of Warning for violation of 02 NCAC 52J .0202(a).
3. On September 3, 2021, AWS received a complaint about the care and condition of the animals in the pet store. Based on the information in the complaint, AWS opened an investigation.
4. As part of the investigation, the AWS Inspector conducted an unannounced site visit to the pet shop on September 8, 2021. This site visit revealed the following:
 - a. the AWS Inspector noted several of the enclosures in the front windows did not have adequate resting surfaces to comfortably hold all occupants of the primary enclosures at the same time in violation of 02 NCAC 52J .0204(c). On August 25, 2021, the pet shop was assessed a Civil Penalty for previous violations of this regulation.
5. On October 13, 2021, the AWS Inspector conducted an unannounced follow-up site visit. This site visit revealed the following:
 - a. the AWS noted that one enclosure held 3 large puppies but did not have any solid resting surfaces in violation of 02 NCAC 52J .0204(c);
 - b. another enclosure also holding 3 large puppies did not have adequate resting surfaces to comfortably hold all occupants of the primary enclosures at the same time in violation of 02 NCAC 52J .0204(c); and

- c. the pet shop was using antibiotic ophthalmic drops intranasally on puppies without a written prescription from a licensed veterinarian authorizing this off-label use of a prescription medication.

CONCLUSIONS

As a result of this investigation, AWS concludes that the pet shop, either by act or omission, violated the following provisions:

02 NCAC 52J .0204(c) for failing to provide solid resting surfaces adequate to comfortably hold all occupants of the primary enclosure at the same time on September 8, 2021 and again on October 13, 2021. The facility had previously been assessed a Civil Penalty by AWS for this violation on August 25, 2021; and

02 NCAC 52J .0210(c) for failing to provide proper veterinary care to the puppies by administering a prescription medication in an off-label manner without written authorization from a licensed veterinarian.

CIVIL PENALTY

As required by N.C. General Statute § 19A-40, in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Mary Beth Jensen individually and Friendly Pets d/b/a Jensen & Sons, Inc., is hereby assessed a civil penalty for the following violations:

\$800.00 for 2 violations (\$400.00 per violation) of 02 NCAC 52J .0204(c) for failing to provide solid resting surfaces adequate to comfortably hold all occupants of the primary enclosure at the same time on September 8, 2021 and again on October 13, 2021. This civil penalty is assessed as a second violation of this rule as the pet shop was assessed a civil penalty for 2 violations of this rule on August 25, 2021.

\$800.00 TOTAL AMOUNT ASSESSED

NOTICE of WARNING

As to the remaining violation of 02 NCAC 52J .0210(c) for failing to provide proper veterinary care to the puppies by administering a prescription medication in an off-label manner without written authorization from a licensed veterinarian, this Warning Letter serves as written notice indicating in which respects the pet shop may have violated the NC Animal Welfare Act and the rules issued pursuant thereto.

Continued or future violation of the statutes or regulations referenced in this letter will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's

license pursuant to NCGS § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NCGS § 19A-40.

(See Appendix for text of referenced General Statutes and Administrative Code)

November 17, 2021
Date

Patricia Norris, DVM, MS
Patricia Norris, DVM, MS
Director, Animal Welfare Section
North Carolina Department of Agriculture
& Consumer Services

Appendix

REFERENCED LAWS AND REGULATIONS

§ 19A-27. License required for operation of pet shop.

No person shall operate a pet shop unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license shall be for the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year.

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(c) Each primary enclosure shall be provided with a solid resting surface or surfaces adequate to comfortably hold all occupants of the primary enclosure at the same time. All resting surfaces must be of a non-porous or easily sanitized material, such as a towel, or a disposable material such as newspaper. The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0210 VETERINARY CARE

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005.